

REPRESENTATIVE FOR THE PETITIONER:

Tom Terry, *pro se*

REPRESENTATIVE FOR THE RESPONDENT:

Debra Dunning, Marshall County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

M. Jewell, LLC,	)	Petition No.:	50-019-18-1-5-01023-19
by Tom Terry, Member)		
	)	Parcel No.:	50-32-93-301-592.000-019
Petitioner,)		
	)	County:	Marshall
v.)		
	)	Township:	Center
Marshall County Assessor,)		
)		
Respondent.	)	Assessment Year:	2018

Appeal from the Final Determination of the
Marshall County Property Tax Assessment Board of Appeals

May 11, 2020

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Does Petitioner have standing to appeal the 2018 assessment? Did Petitioner initiate this appeal in a timely manner? If so, did Petitioner prove the 2018 assessment is incorrect?

PROCEDURAL HISTORY

2. The Petitioner initiated its 2018 assessment appeal with the Marshall County Assessor.¹ On October 7, 2019, the Marshall County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner relief. The Petitioner filed a Petition for Review of Assessment (Form 131) with the Board.
3. On February 12, 2020, Dalene McMillen, the Board's Administrative Law Judge (ALJ), held a hearing on the petition. Neither the Board nor the ALJ inspected the property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. Tom Terry appeared *pro se* and was sworn.² Jordan Macias was sworn as a witness for the Petitioner. County Assessor Debra Dunning appeared for the Respondent and was sworn. Director of Assessments Mindy Penrose was sworn as a witness for the Respondent.
5. The property under appeal is a rental property located at 228 Dickson Street in Plymouth.
6. The PTABOA determined the 2018 total assessment is \$57,900 (land \$15,800 and improvements \$42,100).
7. The Petitioner requested a total assessment of \$32,800 (land \$15,800 and improvements \$17,000).
8. The Petitioner offered the following exhibits:

Petitioner Exhibit 1: 228 Dickson Street and 13800 Rose Road facts sheet,
Petitioner Exhibit 4: 2018 and 2019 subject property record cards,
Petitioner Exhibit 5: Photographs and photograph description sheet for the
subject property,

¹ Ms. Dunning argues the Petitioner submitted a "fraudulent" Taxpayer's Notice to Initiate an Appeal (Form 130) to the Board, alleging Mr. Terry back dated his signature to December 18, 2018. But the Form 130 Mr. Terry filed with this appeal was for a different property. According to Ms. Dunning, the Form 130 for this property was filed on May 9, 2019, with the Marshall County Assessor showing it was signed on May 1, 2019. *Dunning testimony; Resp't Ex. A, K.*

² Mr. Terry signed the Form 131 as "Owner M. Jewell, LLC."

- Petitioner Exhibit 10: Emails exchanged between Tom Terry and the assessor's office dated June 14, 2019, June 17, 2019, and June 21, 2019,
- Petitioner Exhibit 14: Emails exchanged between Tom Terry and the assessor's office dated October 26, 2019, October 30, 2019, and November 6, 2019,
- Petitioner Exhibit 19: Lease/Rental Agreement between M. Jewell, LLC, and Vernell Flowers, dated March 1, 2019,
- Petitioner Exhibit 21: Email exchanged between Jordan Macias and Debra Dunning dated January 17, 2020; and Single Family Homes Gross Rent Multiplier (GRM) Calculation,
- Petitioner Exhibit 22: Aerial photograph of the subject property's neighborhood; 2018 subject property record card; and property record cards for 226 Dickson Street, 224 Dickson Street, 220 Dickson Street and 216 Dickson Street,
- Petitioner Exhibit 26: Indiana Code § 6-1.1-15-13,
- Petitioner Exhibit 27: Board's final determination for *Nelson Whitt v. Delaware Co. Ass'r*, Pet. No. 18-003-06-1-5-01166 (Ind. Bd. Tax Rev. 2009),
- Petitioner Exhibit 28: Board's "Order on Motion to Dismiss and Motions for Summary Judgment" for *Tom Terry, et al*, issued September 4, 2012,
- Petitioner Exhibit 29: Board's final determination for *Tom Terry v. Delaware Co. Ass'r*, Pet. No. 18-003-07-1-5-00014 (Ind. Bd. Tax Rev. 2014),
- Petitioner Exhibit 32: Board's final determination for *Glenn R. Blossom v. St. Joseph Co. Ass'r*, Pet. No. 71-026-16-3-5-00365-18 (Ind. Bd. Tax Rev. 2019).³

9. The Respondent offered the following exhibits:

- Respondent Exhibit A: Form 130 dated May 9, 2019,
- Respondent Exhibit B: Tax Deed for the subject property dated January 14, 2019,
- Respondent Exhibit C: Notice of Assessment of Land and Structures / Improvements (Form 11) dated March 23, 2018,
- Respondent Exhibit D: 2017 and 2018 subject property record cards,
- Respondent Exhibit E: Photograph of the subject property,

³ The Petitioner handed the ALJ Petitioner's Exhibits 2, 3, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 18, 20, 23, 24, 25, 30, 31, 33, 34, 35, 36 and 37 at the hearing, but he never introduced or requested these exhibits be admitted into the record. With that being said, the Petitioner requested the Board to take notice of the exhibits. Additionally, the Petitioner's exhibit coversheet listed Petitioner's Exhibit 38, a trended appraisal, but this exhibit was never submitted. Even if the Board considered all the Petitioner's exhibits in their entirety, this Final Determination would remain the same.

- Respondent Exhibit F: Joint Report by Taxpayer / Assessor to the County Board of Appeals of a Preliminary Informal Meeting (Form 134) dated July 23, 2019,
- Respondent Exhibit G: Notice of Hearing on Petition – Real Property (Form 114) dated August 30, 2019,
- Respondent Exhibit H: PTABOA minutes for meeting held October 3, 2019,
- Respondent Exhibit I: Notification of Final Assessment Determination (Form 115) dated October 7, 2019,
- Respondent Exhibit J: Indiana Code § 6-1.1-15-13,
- Respondent Exhibit K: Form 131 file stamped by Marshall County Assessor on November 6, 2019; Form 130 dated December 12, 2018; and Form 115 dated October 7, 2019,
- Respondent Exhibit L: Sales disclosure form for the subject property dated January 19, 2019,
- Respondent Exhibit M: Emails exchanged between Tom Terry and the assessor’s office dated June 14, 2019, June 17, 2019, June 21, 2019, July 2, 2019, July 3, 2019, July 5, 2019, July 15, 2019, and July 21, 201,
- Respondent Exhibit N: Emails exchanged between Jordan Macias and the assessor’s office dated September 23, 2019, September 24, 2019, September 25, 2019, and September 30, 2019,
- Respondent Exhibit O: Emails exchanged between Tom Terry, Jordan Macias and Debra Dunning dated October 3, 2019, October 26, 2019, and October 30, 2019,
- Respondent Exhibit P: Emails exchanged between Tom Terry and Debra Dunning dated October 30, 2019, November 5, 2019, November 6, 2019, November 9, 2019, November 12, 2019, and November 13, 2019,
- Respondent Exhibit Q: Emails exchanged between Tom Terry, Jordan Macias and Debra Dunning dated January 14, 2020, January 16, 2020, January 17, 2020, and January 28, 2020.
- Respondent Rebuttal Exhibit A: Indiana Tax Court summary of *Mark & Jon Eckerling v. Wayne Twp. Ass’r*, 841 N.E. 2d 674, 677 (Ind. Tax Ct. 2006),
- Respondent Rebuttal Exhibit B: Respondent’s sales comparison analysis and property record cards for 621 Pearl Street, 723 Lincoln Street, 120 Pierce Street, 624 Thayer Street, 217 Dickson Street and 331 Clark Street,
- Respondent Rebuttal Exhibit C: 2019-2020 Indiana County Assessors book data for Delaware County and Marshall County,
- Respondent Rebuttal Exhibit D: County Assessor’s Single Family Homes GRM Calculation,
- Respondent Rebuttal Exhibit E: Form 11 dated March 23, 2018,

- Respondent Rebuttal Exhibit F: Sales disclosure form for the subject property dated January 10, 2019,
- Respondent Rebuttal Exhibit G: Form 130 dated June 3, 2019; Result of Preliminary Informal Meeting sheet dated July 22, 2019; Form 115 dated July 24, 2019; and email exchanges between Tom Terry and Debra Dunning dated July 15, 2019, and July 21, 2019,
- Respondent Rebuttal Exhibit H: Board's final determination for *Kooshtard Property VIII, LLC v. Addison Twp. Ass'r (Shelby Co.)*, Pet. No. 73-002-02-1-4-00001 (Ind. Bd. Tax Rev. 2010),
- Respondent Rebuttal Exhibit I: Email / Phone history sheet between M. Jewell LLC, by Tom Terry and the assessor's office.

10. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) the digital recording of the hearing and these findings and conclusions.

OBJECTIONS

11. Ms. Dunning made several hearsay objections. She objected to Mr. Macias' testimony regarding information obtained from the tenant about the condition of the subject property. She also objected to Mr. Macias' testimony concerning a conversation between him and Department of Local Government Finance (DLGF) employee John Toumey. Finally, Ms. Dunning objected to any testimony regarding the opinion of value from Mr. Terry's appraiser. The ALJ took these objections under advisement.
12. "Hearsay" is a statement, other than one made while testifying, that is offered to prove the truth of the matter asserted. Such a statement can be either oral or written. (Ind. R. Evid. 801 (c)). The Board's procedural rules specifically address hearsay evidence:

Hearsay evidence, as defined by the Indiana Rules of Evidence (Rule 801), may be admitted. If not objected to, the hearsay evidence may form the basis for a determination. However, if the evidence is properly objected to and does not fall within a recognized exception to the hearsay rule, the resulting determination may not be based solely upon the hearsay evidence.

52 IAC 3-1-5 (b). The word “may” is discretionary, not mandatory. In other words, the Board can permit hearsay evidence to be entered in the record, but is not required to allow it.

13. This testimony is hearsay. While it does nothing to either prove or disprove the market value-in-use, the testimony is admitted. Because the Assessor objected to the testimony, however, it cannot serve as the sole basis for the Board’s decision.

PETITIONER’S CONTENTIONS

14. The subject property is over assessed, and Mr. Terry has standing to initiate this appeal. The property was purchased at a tax sale on October 11, 2017. The Petitioner received title to the property via tax deed on January 10, 2019.⁴ The first tax bill on the property was received by the Petitioner on April 12, 2019. According to the Petitioner “if the notice of a board or official is not otherwise given in accordance with the general assessment provision of this article, the receipt by the taxpayer of the tax bill resulting from that action is the taxpayer’s notice for the purpose of determining the taxpayer’s right to obtain a review or initiate an appeal.” *Terry testimony; Pet’r Ex. 1, 26.*
15. Mr. Terry went on to argue according to prior Board determinations, it is not required for the individual to be the legal owner of the property on the assessment date in question to have standing to initiate an appeal. Instead, either the owner or the individual responsible for the taxes resulting from the assessment date has proper standing. The Petitioner was required to pay the taxes based on the 2018 assessment date in order to obtain the tax deed. Therefore, the Petitioner has standing. *Terry testimony; Pet’r Ex. 27, 28, 29, 32.*
16. After the property was purchased, the Petitioner discovered the property was in poor condition.⁵ Specifically, the floor is slanted, where you “can roll a bowling ball from the front door to the back door.” The front porch and basement leak, the chimney is falling

⁴ The tax deed shows it was recorded in the Marshall County Recorder’s office on February 5, 2019. *See Resp’t Ex. B.*

⁵ At this time Mr. Terry also realized the current tenant had been renting the property for the past 28 years.

apart, the roof is “wavy,” the home lacks gutters, the windows need replaced, and the foundation suffers from water damage and deferred maintenance. *Macias testimony; Pet’r Ex. 5.*

17. According to Mr. Macias, the Assessor erred when she assigned a grade of C-1 to the home.⁶ In support of his position, he presented an aerial map and the property record card for the property located at 226 Dickson Street. It is identical to the subject property, except it has been remodeled. After the remodel it received a grade of D+2. *Macias testimony; Pet’r Ex. 22.*
18. Mr. Macias also completed a comparable assessment analysis of the 226 Dickson Street property, which has central air, newer windows, a better roof, newer cabinets, and updated electricity.⁷ According to the property record card, the Assessor applied 34% abnormal obsolescence to this home and the property was assessed at \$24,100, roughly half of the assessed value for the subject property.⁸ *Macias testimony; Pet’r Ex. 4, 22.*
19. Mr. Macias also completed an assessment comparison of the property at 220 Dickson Street. This comparable property measures “over” 1,200 square feet while the subject property only has 882 square feet of living area. This D grade property was assessed at \$37,400. *Macias testimony; Pet’r Ex. 22.*
20. Finally, Mr. Macias compared the land assessments of 220 Dickson Street and 226 Dickson Street to the subject property. The 220 Dickson Street lot measures 37 feet by 130 feet and has a land assessment of \$8,200. The 226 Dickson Street lot measures 22 feet by 140 feet and has a land assessment of \$5,100. The lot size of the subject property is shown as 87 feet by 140 feet, but the boundary line runs along the river and has eroded

⁶ In response to questioning, Mr. Macias testified his experience includes working for the Petitioner since February of 2014 and he is involved with the sales and handling of the properties.

⁷ Petitioner’s Exhibit 22, the property record card for 226 Dickson Street, does not indicate the property is being assessed with central air.

⁸ According to Mr. Macias, the county has no written standards, procedures, or guidelines on how the obsolescence was calculated on this property, and several other rental properties in the neighborhood, a point that Mr. Toumey from the DLGF found “strange.”

over the years so that the lot is smaller than the 226 Dickson Street lot due to the erosion. The subject property's land assessment is \$15,800. Based on this comparison, the land assessment for the subject property should be "assessed for no more than \$5,100."

Macias testimony; Pet'r Ex. 22.

21. According to email exchanges, the county established a 2018 and 2019 GRM of 89.⁹ The Respondent provided a listing of the homes used to calculate the GRM. The calculation was flawed for several reasons. First, only 10 of the 25 properties used were rental properties. The remaining properties consisted of land only sales and owner-occupied homes. Additionally, the Respondent failed to establish how the properties used were comparable to each other. While the Respondent developed a GRM for rental properties, albeit flawed, it appears rental properties are assessed using the cost approach with a 34% abnormal obsolescence applied. *Macias testimony; Pet'r Ex. 14, 21.*
22. For the 2019 assessment year, the parties agreed to a total assessment of \$50,000. The Petitioner "assumed" the \$50,000 would be further reduced to \$38,500 once the rental contract or Mr. Terry's tax return was produced. This did not happen. The Petitioner "hoped" once all the paperwork was filed, the \$38,500 total assessment would apply to the 2018 assessment year as well. *Terry testimony; Macias testimony; Pet'r Ex. 10, 19.*
23. Finally, according to the Petitioner he contacted an appraiser, but because of time constraints was unable to obtain an appraisal on the subject property. But the appraiser verbally gave him an opinion of value of \$15,000 to \$20,000 for the subject property. *Terry testimony; Macias testimony.*

⁹ Petitioner's Exhibit 14 indicates the subject property received a 34% obsolescence factor for the 2020 assessment year to reflect "an income approach to the assessed value."

RESPONDENT'S CONTENTIONS

24. The Petitioner lacks standing. The 2018 Form 11 was sent to Robert Morrison, the owner of record as of March 23, 2018. The Form 11 outlined the owner's right to appeal the assessment on or before May 7, 2018. The owner of record failed to appeal the 2018 assessment. The Petitioner purchased subject property at a tax sale on October 11, 2017. He did not record the tax deed until February 5, 2019. *Dunning argument; Penrose testimony; Resp't Ex. B, C, J; Resp't Rebuttal Ex. E.*
25. The Petitioner appealed the 2018 assessment with a Form 130 to the county on May 9, 2019. On May 9, 2019, the Petitioner was mailed a Notice of Defect in Completion of Assessment Appeal Form (Form 138) stating "the appeal time for 2018 has expired not owner of record for 1/1/18." The Form 138 also indicates the owner of record in 2018 was Robert G. Morrison.¹⁰ *Dunning testimony; Resp't Ex. A, H.*
26. As to the merits of the case, the Petitioner failed to offer any proof the subject property was used as a single-family rental as of January 1, 2018. In fact, the sales disclosure form filed by the Petitioner on January 10, 2019, the Petitioner answered "no" to the question on the form "[I]s this property a residential rental property?" Further, the Petitioner submitted a lease/rental agreement indicating the property was not rented until March 1, 2019. *Dunning argument; Penrose testimony (referencing Pet'r Ex. 19); Resp't Ex. L; Resp't Rebuttal Ex. F.*
27. Regardless, the subject property is correctly assessed. Ms. Penrose presented sales for six properties located in the same neighborhood. The comparable properties sold between February 5, 2016, and September 18, 2017. The sale prices ranged from \$59,500 to \$89,000. Adjustments were made to account for differences using the DLGF cost table. These differences included things such as plumbing fixtures, grade, land value, exterior

¹⁰ In response to questioning, Ms. Dunning testified that PTABOA members Terry Knee and Phyl Olinger were present at the continuation hearing that rendered the PTABOA final decision on October 7, 2019. Mr. Terry testified that according to the State of Indiana "Access Counselor" he should have been allowed to attend the continuation hearing and give his opinion but he was barred from attending. *Dunning & Terry testimony.*

feature, and effective year built. The adjusted median sale price is \$65,090 and the average sale price is \$64,583. The 2018 assessment of the subject property is \$57,900.

Penrose testimony; Resp't Rebuttal Ex. B.

28. In 2018 the subject property was assessed in fair condition. The physical characteristics of the property were changed and the assessment lowered as a result of a 2019 appeal. The Petitioner's argument regarding the physical characteristics of the subject property are irrelevant in establishing the market value-in-use. Both the Board and the Tax Court have held that when a taxpayer challenges an assessment, he must show the assessor's assessed value does not accurately reflect the property's market value-in-use. *Penrose testimony; Resp't Rebuttal Ex. A & H.*

29. According to Ms. Dunning it is "optional" to give a rental deduction. In Marshall County, the Assessor's office adopted a 34% reduction to be applied to rental properties because they are not entitled to a homestead exemption.¹¹ She also stated the 34% reduction was applied to the subject property for the 2020 assessment after the Petitioner presented proof the property was utilized as a rental property. *Dunning testimony.*

BURDEN OF PROOF

30. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute creates two exceptions to that rule.

31. First, Ind. Code § 6-1.1-15-17.2 "applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax

¹¹ The Respondent used the term "homestead exemption" in her presentation. There is no exemption that exempts homesteads from taxation. The Board infers she is referring to the standard deduction provided under Ind. Code § 6-1.1-12-37.

year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeal taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).

32. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
33. The assessment of the subject property decreased from 2017 to 2018 and the Petitioner failed to offer any argument that the burden should shift to the Respondent. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply. The burden rests with the Petitioner.

STANDING TO APPEAL

34. The Board must first determine whether the Petitioner has standing to appeal. Both Ind. Code § 6-1.1-15-1 and Ind. Code § 6-1.1-15-3 provide for review of the “taxpayer’s tangible property.” The tax sale statutes, together with case law applying those statutes, establish that one who holds a tax sale certificate during the redemption period is not a legal or equitable owner of the property. *See Geller v. Meek*, 496 N.E.2d at 106-107 (explaining that at a tax sale a buyer acquires a lien on the subject real estate, but does not get legal or equitable title). “The tax sale creates a lien against the property that may ripen into full ownership *at some later time by the issuance of a tax deed.*” *Id.* at 107 (quoting *Fields v. Evans*, 484 N.E.2d 36, 38 (Ind. Ct. App. 1985) (*emphasis added*)).

35. A holder of a tax sale certificate under Ind. Code § 6-1.1-24 does not have an interest in tangible property for purposes of obtaining a review or bringing an appeal of an assessment of property. Ind. Code § 6-1.1-15-0.7.
36. The Board finds that the Petitioner owned the property on the date the Form 130 was filed. Accordingly, the Petitioner had standing to file an appeal.

TIMELINESS

37. Standing, however, is not the dispositive issue here. The Board finds that the Petitioner failed to file the Form 130 within 45 days of the issuance of the Form 11. Accordingly, the appeal was untimely and the Board cannot grant relief. While it may seem unfair that a property owner cannot appeal if the property is acquired after the time period following a Form 11 has expired, the law provides no such exception.

ANALYSIS

38. Even if this appeal were timely, the Petitioner did not make a prima facie case.
39. Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
40. Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2018 assessment, the valuation date was January 1, 2018. *See* Ind. Code § 6-1.1-2-1.5.

41. The Petitioner claims the assessed values of the properties at 220 Dickson Street and 226 Dickson Street prove the subject property is over-assessed. The Petitioner went on to argue the land assessment “should be no more than \$5,100 based on comparable land assessments in the neighborhood.” While a party may offer evidence showing how comparable properties are assessed, the determination of whether properties are comparable shall be made using generally accepted appraisal and assessment practices. Ind. Code § 6-1.1-15-18(c). This method requires far more information than the Petitioner offered. *See Long*, 821 N.E.2d at 471 (holding that taxpayers seeking to show their property’s value through sales data for other properties had to explain how the characteristics for their property compared to the other properties and how relevant differences affected value).
42. Here, the type of analysis required is lacking. The only information the Petitioner provided was location, size of the lots, quality grade, size, and the interior amenities of 226 Dickson Street. The Petitioner failed to provide enough information for the Board to conclude the purportedly comparable properties are indeed comparable to the subject property. Moreover, the Petitioner failed to identify or quantify any differences between the purportedly comparable properties and the subject property. Thus, the Petitioner’s assessment comparison lacks probative value.
43. Next, the Petitioner focused on the grade, condition, basement leak, windows and other deferred maintenance on the subject property. While the issues with the home likely have a negative effect on the property’s value, the evidence does not support a particular valuation. Even if the Assessor made errors, simply attacking her methodology is insufficient to rebut the presumption that the assessment is correct. *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). To successfully make a case for a lower assessment, a taxpayer must use market-based evidence to “demonstrate that their suggested value accurately reflects the property’s true market value-in-use.” *Id.* A taxpayer needs to show the assessment does not accurately reflect the market value-in-use. *Id.*; *see also P/A Builders 7 Developers, LLC v. Jennings Co. Ass’r*, 842 N.E.2d

899, 900 (Ind. Tax Ct. 2006) (explaining that the focus is not on the methodology used by the assessor but instead on determining what the correct value actually is). The Petitioner failed to provide any probative evidence of market value-in-use.

44. We give no weight to the Petitioner’s assumption that because the Respondent reduced the 2019 assessment it would be retroactively applied to the 2018 assessment. “Each tax year stands alone for property tax assessment administrative and judicial appeals.” *Garrett LLC v. Noble County Ass’r*, 112 N.E.3d 1168, 1175 (Ind. Tax Ct. 2018).

45. Where the Petitioner has not supported its claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

SUMMARY OF FINAL DETERMINATION

46. The Petitioner failed to make a prima facie case for reducing the 2018 assessment. The Board finds in favor of the Respondent and orders no change to the assessment.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.